



**SPECIAL PERMIT APPLICATION ACCEPTED:** August 31, 2012

**VARIANCE APPLICATION ACCEPTED:** June 5, 2013

**BOARD OF ZONING APPEALS:** August 7, 2013

**TIME:** 9:00 a.m.

# County of Fairfax, Virginia

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**July 31, 2013**

## **STAFF REPORT ADDENDUM**

**SPECIAL PERMIT APPLICATION NO. SP 2012-SP-059 AND**

**VARIANCE APPLICATION NO. VC 2013-SP-008**

**Monika E. Jedrol**

### **BACKGROUND**

On January 16, 2013, the Board of Zoning Appeals (BZA) held a public hearing on special permit application SP 2012-SP-059. The request was to permit a home child care facility and error in building location to permit an accessory storage structure to remain 2.6 feet from a side lot line at 6117 Lundy Place in the Bent Tree subdivision in Burke. The applicant currently has nine children ranging in age from infant to five years old, and requested approval to care for ten children at any one time. Based on the fact that the site is accessible only via a narrow 20 foot wide ingress/egress easement, staff recommended approval of the application but only with the existing number of nine children on site at any one time.

Staff noted in the staff report that a large portion of the existing brick paver driveway/parking area needed to be removed to meet the maximum front yard coverage of 30% allowed by the Zoning Ordinance. Given that the dwelling has a two car garage, and two spaces in front of the garage which would be needed for the employees of the home child care use, staff would support one additional space along the side of the dwelling, which could accommodate a drop off/pick up space needed for parking. The BZA deferred decision on the application to allow the applicant time to submit a variance application to permit greater than 30% front yard coverage.

### **DISCUSSION**

Variance application VC 2013-SP-008 was accepted on June 5, 2013. The applicant has submitted three plats. Sheet 1 of 3 (Option 1) depicts the pavement as it currently exists on site which is front yard coverage of 58%. This is the option the applicant requests the BZA to approve. It would allow parking on site for approximately six vehicles; two in the garage, two in front of the garage and two to three east of the garage. Sheet 2 of 3 (Option 2) depicts front yard coverage of 38%, which provides five parking spaces on site, allowing one to two spaces for drop-off/pick-up of children, depending on how many employees are on site and where they are parked. Sheet 3 of 3 (Option 3) depicts exactly 30% front yard coverage, which allows four parking spaces on site.

## APPENDICES

1. Revised Proposed Special Permit Development Conditions
2. Proposed Variance Development Conditions
3. Variance Locator Maps
4. Variance Affidavit
5. Variance Statement of Justification
6. Plats, Sheets 1 thru 3

**REVISED PROPOSED DEVELOPMENT CONDITIONS****SP 2012-SP-059****July 31, 2013**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-SP-059 located at Tax Map 78-4 ((13)) 331 to permit a home child care facility under Section 8-305 and to permit reduction to minimum yard requirements based on error in building location under Section 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions. **Proposed changes to the development conditions dated November 21, 2012, are shown bolded and as strike-through.**

1. This approval is granted to the applicant only, Monika Jedrol, and is not transferable without further action of this Board, and is for the location indicated on the application, 6117 Lundy Place, Burke, 22015, and is not transferable to other land.
2. This special permit is granted only for the purposes, structures and/or uses indicated on the variance plat prepared by B.W. Smith and Associates, Inc., dated and sealed **October 16, 2012, as revised through May 7, 2013, and noted as Option \_\_\_\_\_**, approved with this application, as qualified by these development conditions.
3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The total maximum daily enrollment at the home child care facility shall not exceed nine (9) children.
5. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
6. The maximum number of employees shall be limited to two (2) on site at any one time in addition to the provider.
7. The dwelling that contains the home child care facility shall be the primary residence of the provider.
8. There shall be no signage associated with the home child care facility.

9. ~~Within 180 days of approval of this special permit the applicant shall remove a portion of the brick driveway parking surface so that in no instance shall the driveway or parking area exceed 30% coverage of the front yard.~~

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

**PROPOSED DEVELOPMENT CONDITIONS**

**VC 2013-SP-008**

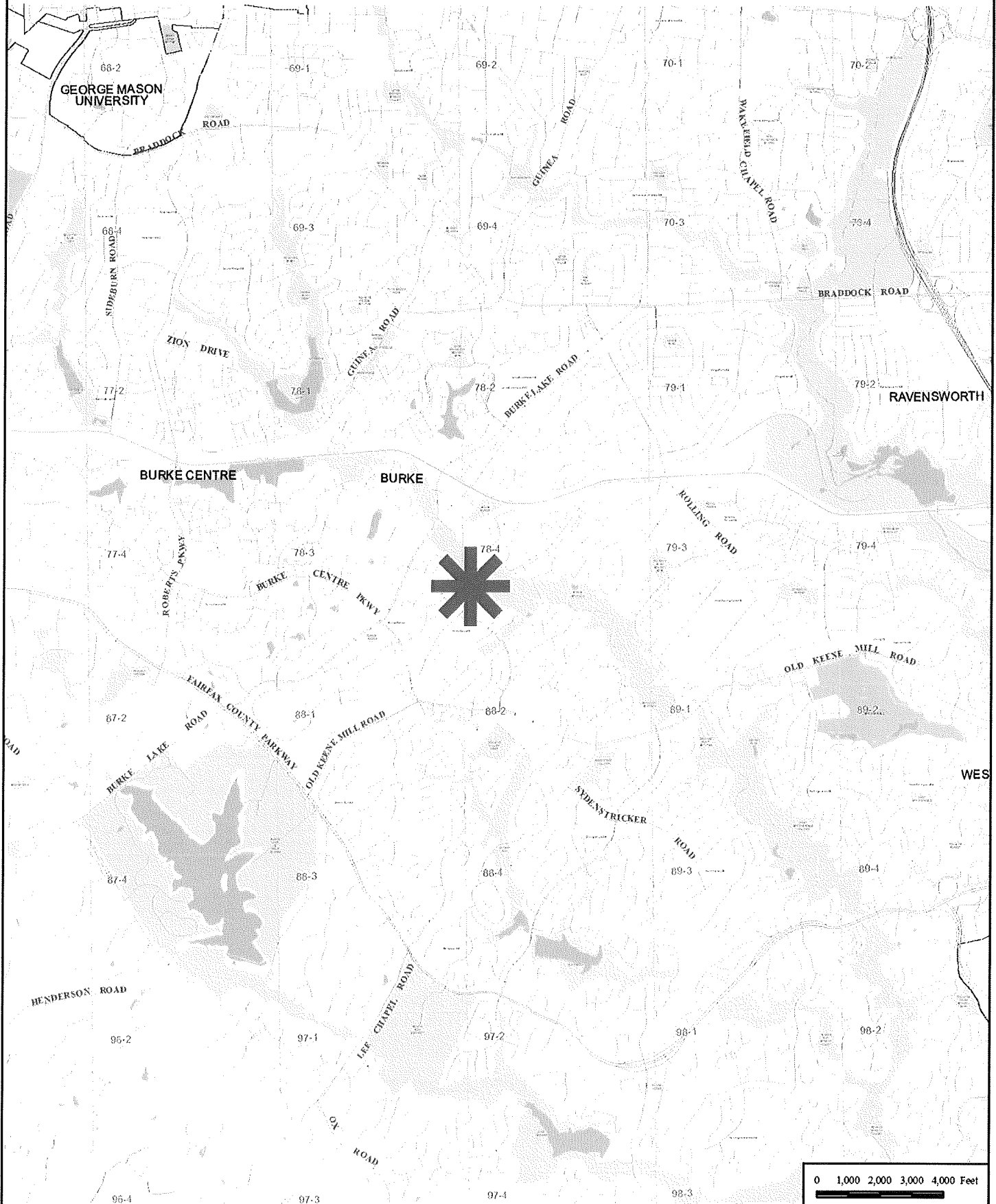
**July 31, 2013**

1. This variance is approved for the front yard coverage as shown on the variance plat prepared by B.W. Smith and Associates, Inc., dated and sealed October 16, 2012, as revised through May 7, 2013, and noted as Option \_\_\_\_\_, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

# Variance Application

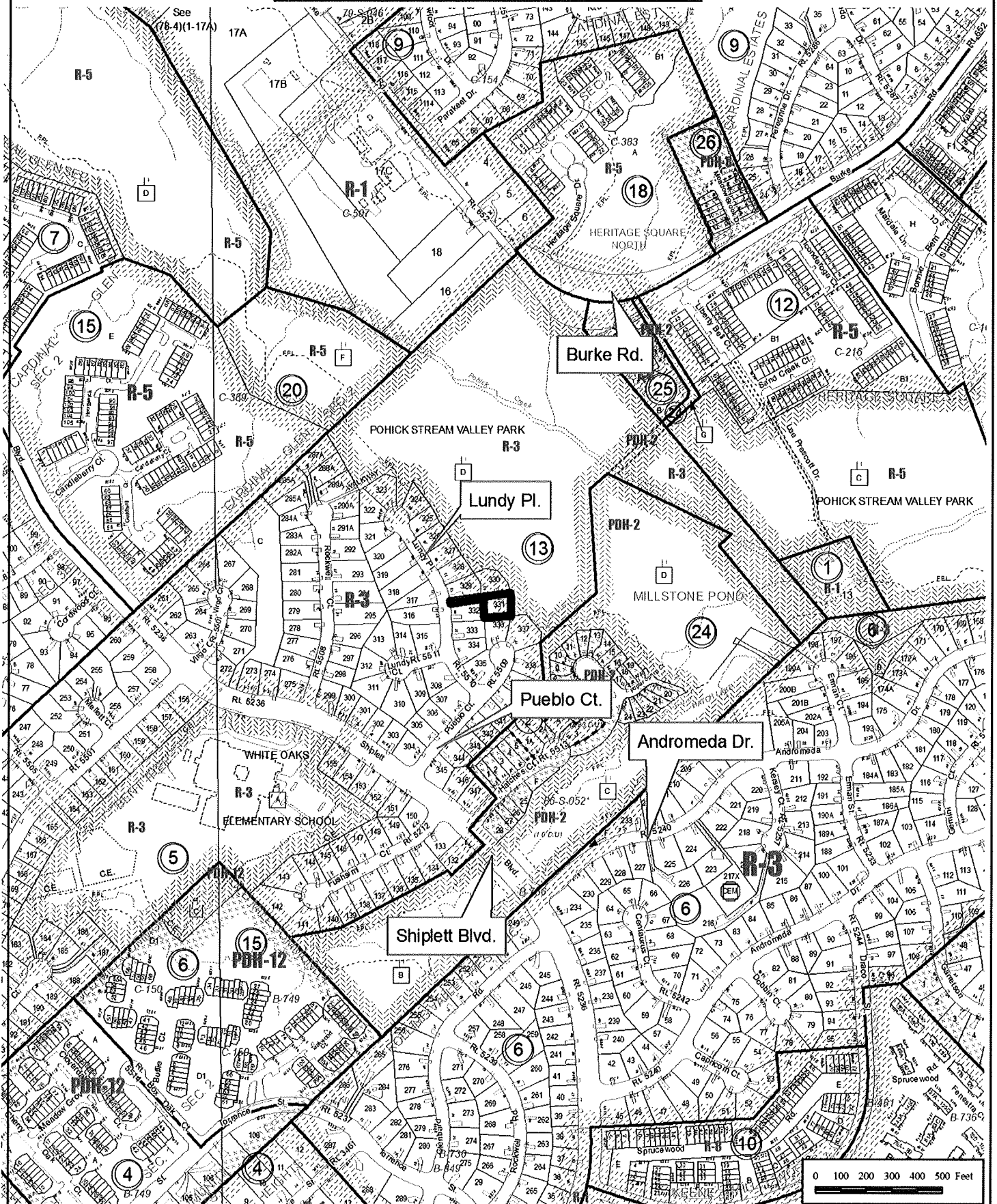
## VC 2013-SP-008



# Variance Application

VC 2013-SP-008

MONIKA JEDROL



Application No.(s): \_\_\_\_\_  
 (county-assigned application number(s), to be entered by County Staff)

## SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/8/13  
 (enter date affidavit is notarized)

I, Monika Jedrol, do hereby state that I am an  
 (enter name of applicant or authorized agent)

(check one)



applicant



applicant's authorized agent listed in Par. 1(a) below

119954

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
1. MONIKA JEDROL	6117 LUNDY PI. BURKE, VA 22015	<b>APPLICANT/ TITLE OWNER</b>
2. SZEF JEDROL	6117 LUNDY PI. BURKE, VA. 22015	<b>OWNER</b>
③ William Florence	5604 Sutherland Ct Burke, VA 22015	Agent
④ Gina Florence	5604 Sutherland Ct. Burke, VA 22015	Agent.

(check if applicable)



There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary). none 2/8/13

③ Also known of record as William C. Florence  
 ④ Also known of record as Gina M. Florence



Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/8/13  
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119954

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

N/A

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

N/A

**DESCRIPTION OF CORPORATION:** (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

N/A

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

N/A

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

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1(c). The following constitutes a listing\*\*\* of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

N/A

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

N/A

(check if applicable) ☐ The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

N/A

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form. N/A

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/8/13  
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1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): \_\_\_\_\_  
(County-assigned application number(s), to be entered by County Staff)

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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/8/13  
(enter date affidavit is notarized)

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3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)**

NONE

**(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)**

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

☒ Applicant

☐ Applicant's Authorized Agent

William C. Florence - Agent  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 8th day of February 2013, in the State/Comm. of Virginia, County/City of Fairfax.

Notary Public

My commission expires: 03/31/2015

Monika Jederal  
6117 Lundy Place  
Burke, VA 22015

RECEIVED  
Department of Planning & Zoning

FEB 22 2013

Zoning Evaluation Division

To: Department of Planning and Zoning  
Special Permit & Variance Branch  
12055 Government Center Parkway  
Suite 801  
Fairfax, VA 22035

To whom it may concern:

02/08/2013

On November, 28 2012, the Applicant appeared in front of the Board of Zoning Appeals (BZA) to request the approval of a Special Permit (Special Permit Application #SP 2012-SP-059) to allow more than the by-right 7 children to be cared for at her in-home daycare. As part of the application process, it was noticed the Applicant was in violation of a zoning ordinance which does not allow the total surface area of a property owner's front yard to be covered by >30% paved surfaces. Right now, the Applicant's front yard is 58% covered by impervious pavers; 28% above the ordinance's specifications. This extra paved surface area serves as an area for the drop-off and pick-up of children cared for in the applicant's in-home daycare and parking for 1 employee. As a result of this zoning ordinance violation, BZA staff recommended reducing the paved surface coverage from 58% coverage to 30% coverage (to comply with the applicable zoning ordinances) and supported the special permit application to allow the Applicant to have up to 9 children in her in-home daycare. These staff recommendations were put forth to the BZA board; however, the BZA deferred a ruling on the Applicant's special permit application because there were no schematics within the application package to depict what the reduction would look like. Thus, the BZA requested the Applicant to obtain such depictions and reappear in front of the BZA Board for a ruling.

To address the zoning ordinance violation and in consultation with BZA staff, the Applicant is also submitting a Variance application (in parallel to the Special Permit application) for consideration by the BZA. The phrase "practical difficulties or unnecessary hardships" are sufficient enough for granting a variance/exception from the Zoning Ordinance due to the difficulties experienced by the two families and clients of the Jederal's are of such a degree of severity and safety that their existence amounts to a substantial and unnecessary injustice (financial and/or personal) to the applicant and neighbors. The criteria for determining unusual hardships as a ground for granting a variance/exception, is whether the Zoning restrictions in question, when applied to this particular property and its surrounding environment, constitute an unreasonable interference to the basic rights of ownership. As such, the Applicant respectfully requests the BZA to consider the following 3 options, listed in order of the Applicant's preference.

**Option A:** The Applicant respectfully request's the BZA to consider approval of a Variance which allows the property owners to keep the current configuration of paved surface area in the front yard (i.e., 58% coverage). Additionally, the Applicant respectfully requests the BZA to consider approval of a Special Permit which would allow the Applicant to care for up to 10 children at the in-home day care. The prime motivation for the Applicant to seek the approval of this option is to limit the financial burden on them. For instance, to date, the Applicant has spent ~\$20,000.00 (the combined cost of product and labor) to have the pavers installed on their property, \$295.00 for the amended variance plats (as requested by BZA staff) and \$1100.00 for the Special Permit application. Removing the pavers to comply with the zoning ordinance would force the Applicant to spend between an additional \$15,000.00 and \$20,000.00, in effect; costing the Applicant ~\$41,395.00 (for the installation and removal of pavers, amended plats and original special permit application) once the entire project is complete. The Applicant would also like to limit any inconvenience to themselves, their neighbors who share the pipe-stem, and clients of their business. This inconvenience would result from re-configuration of the property in the event the Variance is not approved. The paved surface area which is currently in violation of zoning ordinances would be used for the drop-off and pick-up of children cared for at the in-home day care and serves as parking for the single worker employed by the Applicant. As many as 8 cars could be parked at the Applicants property at one time (2 in the garage, 2 in front of the garage and 4 in the space provided by the extra 28% paved surface). However, it is highly doubtful 8 cars would be parked there at the same time. This is a reasonable assumption as Staff's own analysis of traffic at peak drop-off and pick-up times (i.e., weekday mornings and afternoons) demonstrate clients of the Applicant's business stagger drop-offs and pick-ups. BZA staff's analysis demonstrated no more than 2 cars were seen to be dropping-off or picking up at the same time. Thus, the extra paved surface would be primarily used by the clients of the business and the neighbors for turning around to exit the pipe-stem onto Lundy Place. This would prevent further damage to the property as described below. The request to consider this preferred option is supported by the Letters of Support (LOS) submitted by the owners of the property sharing the pipe-stem. A schematic of the property reflecting Option A is depicted on the variance plat entitled "Existing Driveway" in the lower right-hand corner.

**Option B:** The Applicant respectfully request's the BZA to consider approval of a Variance which allows the property owners to reduce the current configuration of paved surface area in the front yard from 58% coverage to 38% coverage. Additionally, the Applicant respectfully requests the BZA to consider approval of the Special Permit which would allow the Applicant to care for up to 10 children at the in-home day care. The prime motivation for the Applicant to seek the approval of this option is to limit the financial burden on them. For instance, to date, the Applicant has spent ~\$20,000.00 (the combined cost of product and labor) to have the pavers installed on their property, \$295.00 for the amended variance plats (as requested by BZA staff) and \$1100.00 for the Special Permit application. Removing the pavers to reduce the pavers from 58% to 38% would force the Applicant to spend between an additional \$4,000.00

and \$8,000.00, in effect; costing the Applicant between ~\$25,395.00 and ~\$31,395.00 (for the installation and removal of pavers, amended plats and original special permit application) once the entire project is complete. After reducing the coverage, the remaining paved surface would be used for the drop-off and pick-up of children cared for at the in-home care and serve as a parking space for the single worker employed by the Applicant. As many as 5 cars could be parked at the Applicants property at one time (2 in the garage, 2 in front of the garage and 1 in the space provided by the extra 8% paved surface. As a result of the reduced paved surface area, the ability of clients and neighbors to turn their vehicles around would be limited and, in effect, force them to back-up the pipe-stem to exit onto Lundy Place. It is reasonable to assume that this would result in continued damage to property as described below. Finally, this option is preferred over Option C (described below) because the Applicant would like to limit the financial cost to them which would result from enforcement of zoning ordinance. Further, the Applicant seeks to limit any inconvenience to not only themselves, but also their neighbors and clients of their business which would result from re-configuration in the event the Variance is not approved. The request to consider this less preferred option is supported by the Letters of Support (LOS) submitted by the owners of the property sharing the pipe-stem; although the Applicant would like to point out that the LOS specifically support the current coverage of the front by paved surfaces. A schematic of the property reflecting Option A is depicted on the variance plat entitled "Proposed Driveway Option 1" in the lower right-hand corner.

**Option C:** The Applicant respectfully request's the BZA to consider approval of a Variance which allows the property owners to reduce current configuration of paved surface area in the front yard from 58% coverage to 30% coverage. Additionally, the Applicant respectfully requests the BZA to consider approval of the Special Permit which would allow the Applicant to care for up to 9 children at the in-home day care. The prime motivation for the Applicant's aversion to this option is because of substantial financial burden they would incur because of the strict enforcement of the zoning ordinance. For instance, to date, the Applicant has spent ~\$20,000.00 (the combined cost of product and labor) to have the pavers installed on their property, \$295.00 for the amended variance plats (as requested by BZA staff) and \$1100.00 for the Special Permit application. Removing the pavers to comply with the zoning ordinance would force the Applicant to spend between an additional \$18,395.00 and \$23,395.00, in effect; costing the Applicant ~\$41,395.00 (for the installation and removal of pavers, amended plats and original special permit application) once the entire project is complete. After reducing the coverage, the remaining paved surface would be used for the drop-off and pick-up of children cared for at the in-home care and to serve as a parking space for the single worker employed by the Applicant. As many as 4 cars could be parked at the Applicants property at one time (2 in the garage, 2 in front of the garage). As a result of the reduced paved surface area, the ability of clients and neighbors to turn their vehicles around would be limited and force them to back-up the pipe-stem to exit onto Lundy Place. This would most likely result in continued damage to property as described below. This option is the least preferred Option because of the financial cost to the Applicant which would result from strict enforcement of the zoning ordinance. Finally, the Applicant would like to limit any inconvenience to not only themselves, but also their

neighbors and clients of their business which would result from re-configuration resulting from the strict enforcement of zoning ordinance. A schematic of the property reflecting Option A is depicted on the variance plat entitled "Proposed Driveway Option 2" in the lower right-hand corner.

To grant a variance or exception to zoning regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation of condition such piece of property, the strict application of any enacted regulation would result in peculiar and unsafe and exceptional practical difficulties to or exceptional and undue hardships upon the owner, their clientele and the next door neighbor, Mr Stephen K. Cook and his family.

1. This specific parcel of land (i.e., Lot 331) has exceptional narrowness, shallowness and shape to allow vehicles to easily turn around; thereby causing unsafe practices. People have backed down/backed up the pipe-stem and ran over grass yards and light rocks placed to buffer and preclude them from running over plants. These parcels were modified and drive way changes made to allow people to turn around inside the pipe-stem without having them to either back all the way down the pipe-stem or back all the way up to pipe-stem to exit onto Lundy Place during the dropping off or picking up of their children.
2. The strict application of zoning ordinance will result in peculiar, unsafe, loss of business and lack of use of a private pipe-stem that is not used by anyone in the county other than the applicant, the neighbor who shares the pipe-stem, guests of both owners and clients of the applicants business. This would create a hardship on the two families that own the property along the pipe-stem and driveway; and could potentially cause the loss of business and tax base that the County current draws from.
3. The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan and would only have impact on the two families that current own the property and do business in the County. Please see applicant's response to Zoning Ordinance Standards #9.

A variance is distinguished from a special exception by virtue of the fact that a variance/exception depends upon the finding of an existence of a practical difficulty or unusual hardships in the application of the Zoning Ordinance to a particular piece of property by reasons of the conditions unique to that property. We believe an exception which requires no such finding, merely a finding that the modifications made the conditions stated in the Zoning Ordinance Standards have been satisfied.

Thank you –

Monika Federol  
6117 Lundy Place  
Burke, VA 22015



ENCL: Responses to Attachment A Zoning Ordinance Standards for variance.



## **Attachment A Zoning Ordinance Standards for Variance.**

1. **That the subject property was acquired in good faith.** The property in question was procured in good faith from an individual in 2007 and has a mortgage on the property held by Seterus and Green Tree. The Applicant was not aware of any violations or restrictions on the property when it was purchased. The next door neighbor's property was also purchased in good faith from an individual on 1 July 1995.
2. **That the subject property has at least one of the following characteristics (note: the effective date of the Ordinance" is August 14 1978:**
  - a. **Exceptional narrowness at the time of the effective date of the Ordinance:** As noted in the general comments in the cover letter, the driveway (i.e., pipe-stem) was very narrow and did not afford the opportunity to turn around and most people using it backed down or backed up on the driveway running over lawns, lights and ornaments.
  - b. **Exceptional shallowness at the time of the effective date of the Ordinance:** The property was not shallow. As a matter of fact, it was quite long and causes a lot of hardship for both families in the event of a snow storm.
  - c. **Exceptional size at the time of the effective date of the Ordinance:** does not apply to this specific property.
  - d. **Exceptional shape at the time of the effective date of the Ordinance:** does not apply to this specific property.
  - e. **Exceptional topographic conditions:** does not apply to this specific property.
  - f. **An extraordinary situation or condition of the subject property:** the extraordinary situation is enhanced when either of the two families have functions and or when the applicant's clients drops of children at the in-home daycare. The narrowness of the pipe-stem created a situation of safety for both the applicant and her neighbors who share the pipe-stem.
  - g. **An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property:** There has been no impact of the property adjacent which is supported by the 3 submitted Letters of Support (LOS) from the owners of the property immediately adjacent to the subject property.
3. **That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.** Within the sub-division where the applicant's property and the property immediately adjacent to the applicant resides, there are two pairs of properties which share a pipe-stem; the applicant and their neighbor and two other properties located on Rockwell Ct. Therefore, only two houses that would be impacted by granting such a variance/exception.
4. **That the strict application of this Ordinance would produce undue hardship.** In the event a variance is not granted by the BZA, the applicant would be required to modify the existing paved surface to comply with the zoning ordinances. The construction to modify the paved surfaces

would create a hardship not only for the applicants but also for the property owners who share the pipe-stem, their guests and applicant's clientele. Other than the noise that would be generated there would be no hardship to any other families in the sub-division.

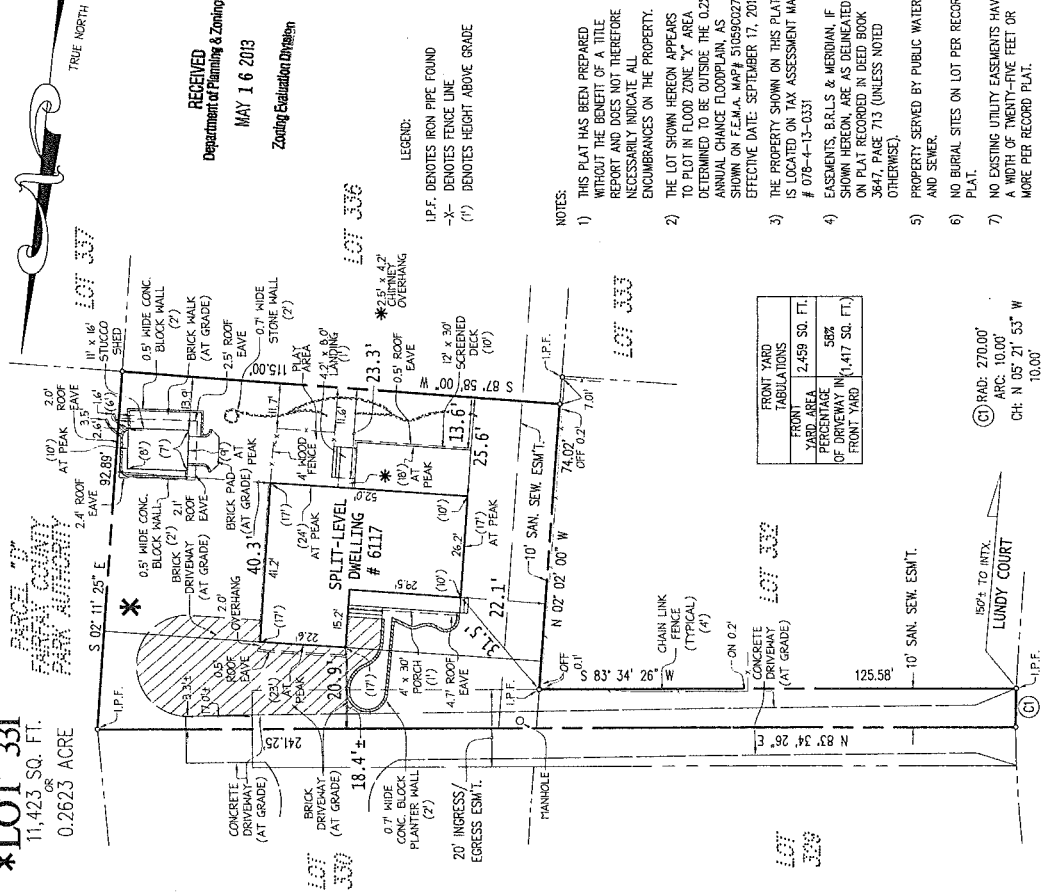
5. **That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.** As noted in paragraph 4, there are only two families impacted by this request for variance/exception. This statement is supported by the 3 submitted Letters of Support (LOS) from the owners of the property immediately adjacent to the subject property.
6. **A. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use (emphasis added) of the subject property.** When this Ordinance was first implemented, most households only had a maximum of two vehicles. In today's environment with work, business within the home and the number of family members in this area this pipe-stem and driveway are used extensively and we need to think about safety of those using it – therefore, an area that would assist in providing space to turn their vehicles around would be exceedingly reasonable.  
**B. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation (emphasis added) as distinguished from a special privilege or convenience sought by the application.** We believe the approval of a variance is not just a convenience but rather approving something that was completed to facilitate safety of those using the pipe-stem; whether for business or family functions.
7. **That authorization of the variance will not be substantial detriment to the adjacent property.** Mr. Cook has stated that modification to the property and the granting of variance as not caused a detriment to him or his family and that if he had the resources he would like his portion of the driveway done as well because it was done in good taste and adds value to this property. This statement is supported by the 3 submitted Letters of Support (LOS) from the owners of the property immediately adjacent to the subject property.
8. **That the character of the zoning district will not be changed by the granting of the variance.** By granting this variance/exception, the only two families that would be impacted within this sub-division are that that live on this pipe-stem and they both support this application.
9. **That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.** The approval of this variance/exception would be in harmony with the environment and it would not impact public since it only involves two families out of ~79 families located on the following streets: Rockwell Ct, Pueblo Ct, Lundy Pl and Lundy Route Ct. It seems reasonable to conclude that granting the variance would not be contrary to the public interest when the variance pertains to a property with specific characteristics (i.e., item 2 of this document) which comprised <3.0% of the total properties located on the streets listed above. Further, of the properties located on the streets listed above, only 4 properties share a pipe-stem; the applicant and their neighbor and two other properties located on Rockwell Ct. Providing confidence that granting of this specific variance is unlikely to be asked for again.

*Monihe Jedho*

**\*LOT 331**  
11,423 SQ. FT.  
OR  
0.2623 ACRE

PARCEL 17  
FAIRFAX COUNTY  
PLANNING  
AUTHORITY

RECEIVED  
Department of Planning & Zoning  
MAY 16 2013  
Zoning Evaluation Division



LEGEND:

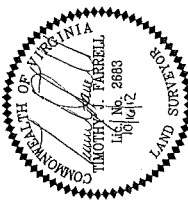
- I.P.F. DENOTES IRON PIPE FOUND
- X- DENOTES FENCE LINE
- (1') DENOTES HEIGHT ABOVE GRADE

NOTES:

- THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
- THE LOT SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON F.E.M.A. MAP# 510590020E EFFECTIVE DATE: SEPTEMBER 17, 2010
- THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP # 078-4-13-0331
- EASEMENTS, B.E.L.S. & MERIDIAN, IF SHOWN HEREON, ARE AS DELINEATED ON PLAT RECORDED IN DEED BOOK 3847, PAGE 713 (UNLESS NOTED OTHERWISE).
- PROPERTY SERVED BY PUBLIC WATER AND SEWER.
- NO BURIAL SITES ON LOT PER RECORD PLAT.
- NO EXISTING UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE FEET OR MORE PER RECORD PLAT.

FRONT YARD TABULATIONS	
FRONT YARD AREA	2,459 SQ. FT.
PERCENTAGE OF DRIVEWAY	58%
FRONT YARD	1,417 SQ. FT.

(C) RAD: 270.00°  
ARC: 10.00°  
CH: N 05° 21' 53" W  
10.00'



**LUNDY PLACE**  
(50' WIDE)

VARIANCE PLAT

**LOT 331**

**BENT TREE**

SPRINGFIELD DISTRICT

FAIRFAX COUNTY, VIRGINIA

**B.W. SMITH AND ASSOCIATES, INC.**

PROFESSIONAL LAND SURVEYING  
MANASSAS, VIRGINIA (703) 566-5866 1(800) 682-0996

DFT: M.K.S. CHK: T.J.F. NO TITLE REPORT FURNISHED

SCALE= 1" = 25'

REVISION: 5/7/13 (CLIENT COMMENTS) T.J.F.  
REVISION: 1/24/13 (PROPOSED DRIVEWAY OPTIONS)  
REVISION: 10/19/12 (FRONT YARD TABLE)

FIELD CREW: J. SEGER

SHEET 1 OF 3  
OPTION 1

JOB# 20721475

DATE: 10/16/12

**\*LOT 331**

11,423 SQ. FT.

OR

0.2623 ACRE

PARCEL "B"  
FAIRFAX COUNTY  
PLANNING & ZONING  
AUTHORITY

RECEIVED  
Department of Planning & Zoning

MAY 16 2013

Zoning Evaluation Division

LEGEND:

- I.P.F. DENOTES IRON PIPE FOUND
- X- DENOTES FENCE LINE
- (1) DENOTES HEIGHT ABOVE GRADE
- ☐ DENOTES PROPOSED IMPROVEMENT

NOTES:

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- 2) THE LOT SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON FEMA MAP # 510500020E EFFECTIVE DATE: SEPTEMBER 17, 2010
- 3) THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP # 078-4-13-0331
- 4) EASEMENTS, BILLS & MORTGAGES, IF SHOWN HEREON ARE AS DELINEATED ON PLAT RECORDED IN DEED BOOK 3647, PAGE 713 (UNLESS NOTED OTHERWISE).
- 5) PROPERTY SERVED BY PUBLIC WATER AND SEWER.
- 6) NO BURIAL SITES ON LOT PER RECORD PLAT.
- 7) NO EXISTING UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE FEET OR MORE PER RECORD PLAT.

FRONT YARD TABULATIONS	
FRONT YARD AREA	2,459 SQ. FT.
PERCENTAGE OF FRONT YARD IN (934 SQ. FT.)	38%

(G) RAD: 270.00°  
ARC: 10.00°  
CH: N 05° 21' 53" W  
10.00'

**LUNDY PLACE**  
(50' WIDE)

VARIANCE PLAT

**LOT 331**

**BENT TREE**

SPRINGFIELD DISTRICT

FAIRFAX COUNTY, VIRGINIA

REVISION: 5/7/13 (CLIENT COMMENTS) T.J.F.  
REVISION: 1/24/13 (PROPOSED DRIVEWAY OPTIONS)  
REVISION: 10/19/12 (FRONT YARD TABLE)

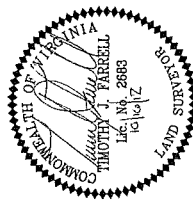
SHEET 2 OF 3  
OPTION 2

**B.W. SMITH AND ASSOCIATES, INC.**

PROFESSIONAL LAND SURVEYING  
MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996

DFT: M.K.S. CHK: T.J.F. NO TITLE REPORT FURNISHED SCALE: 1" = 25'

FIELD CREW: J. SEGER  
JOB# 20121475  
DATE: 10/16/12



SETBACK TABLE ZONED R3	
SETBACK REQUIREMENTS	
YARD	SETBACK
FRONT	20'
REAR	25'
SIDE	8' OR A TOTAL OF 20'

**\*LOT 331**  
11,423 SQ. FT.  
OR  
0.2623 ACRE

PARCEL "D"  
FAIRFAX COUNTY  
PLANNING AUTHORITY

TRUE NORTH

RECEIVED  
Department of Planning & Zoning  
MAY 16 2013  
Zoning Evaluation Division

LEGEND:

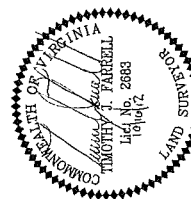
- I.P.F. DENOTES IRON PIPE FOUND
- X- DENOTES FENCE LINE
- (1') DENOTES HEIGHT ABOVE GRADE
- ☐ DENOTES PROPOSED IMPROVEMENT

NOTES:

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- 7) NO EXISTING UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE FEET OR MORE PER RECORD PLAT.

FRONT YARD TABULATIONS	
FRONT YARD AREA	2,459 SQ. FT.
PERCENTAGE OF DRIVEWAY IN (737 SQ. FT.)	30%
FRONT YARD	

① RAD. 270.00'  
ARC: 10.00'  
CH: N 05° 21' 53" W  
10.00'



**LUNDY PLACE**  
(50' WIDE)

VARIANCE PLAT

**LOT 331**

**BENT TREE**

SPRINGFIELD DISTRICT  
FAIRFAX COUNTY, VIRGINIA

**B.W. SMITH AND ASSOCIATES, INC.**

PROFESSIONAL LAND SURVEYING  
MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996

DPT: M.K.S. CHK: T.J.F.

NO TITLE REPORT FURNISHED

SCALE= 1" = 25'

REVISION: 5/7/13 (CLIENT COMMENTS) T.J.F.  
REVISION: 1/24/13 (PROPOSED DRIVEWAY OPTIONS)  
REVISION: 10/19/12 (FRONT YARD TABLE)

FIELD CREW: J. SEEGER

JOB# 20121475

DATE: 10/16/12

SHEET 3 OF 3  
OPTION 3